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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/516,965

02/11/2005

James Smith

93437

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24628

7590

02/03/2009

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CHICAGO, IL 60606

EXAMINER

CROUSE, BRETT ALAN

ART UNIT

PAPER NUMBER

1794

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/516,965	<b>Applicant(s)</b> SMITH ET AL.	
	<b>Examiner</b> Brett A. Crouse	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 22-27 and 39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-27 and 39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2 September 2008 has been entered.

Claims 22-27 and 39 are pending and under consideration.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 22-27 and 39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

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Independent claim 22, from which all other claims ultimately depend, recites the limitation "completely encompassing a fluorescent globe" in line 3. The term "completely" as added by the amendment is treated as new matter as the specification. The specification teaches "encompassing at least a lengthwise portion of a globe" and "substantially all of the fluorescent globe." However, support is not found by the examiner for "completely encompassing" as recited by the amended claim.

The examiner suggests that one approach to overcoming this rejection, which would have support in the specification, is found on page 8 of specification. Lines 17-19, teach "the sleeve may be maintained at a standardized distance from the fluorescent globe along the length of the globe."

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 22-27 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baillie et al., WO 02/075205, in view of Vakil, US 5,634,820 and in view of .

Baillie teaches:

As to claim 22:

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Page 2, lines 5-10, teach that the light fittings are used in proximity to an artificial light source and comprise a luminescent material which is charged by the light emitted by the light source and which emits light when the light source is extinguished. This is held to teach that the luminescent material satisfies the limitation of a phosphor of the instant invention.

Page 4, line 20 through page 5, line 7, teach that the light fittings of Baillie include light and lamp shades, light reflectors, light bulbs, light tubes including fluorescent light tubes, covers of light sources, strip light protective sleeves. The passage additionally teaches that the articles can be covered in part or in their entirety.

Page 5, lines 11-13, teach the light fitting can be in proximity to the light source. This is held to encompass being spaced from the light source.

Page 6, lines 12 through page 7, line 7, teach that the base material should preferably be of high clarity to allow transmission of light. The passage additionally teaches that the luminescent material can be incorporated into the base material or can be provided as a film or coating upon the base material.

Page 11, lines 9-15, teach the fitting providing connection pins for a fluorescent tube.

Baillie does not teach:

Baillie does not provide a teaching of friction fit end piece as part of a sleeve encompassing a fluorescent tube. However, Baillie does provide a fluorescent tube in which the mounting (i.e. the fitting of Baillie) encompasses the tube by being integral with the tube and provides connection pins for the fluorescent tube as part of the mounting. Baillie also teaches sleeves which can encompass a light tube.

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Baille also does not teach an equidistant spacing from the fluorescent tube. However, Baille teaches protective sleeves and spaced in proximity to the tube.

Vakil teaches:

Claims 5 and 10, column 7, lines 48-51, figure 2, teach a friction fit end cap to a fluorescent light fixture.

Motivation:

It would have been obvious to one of ordinary skill in the art to provide a sleeve encompassing a light tube as taught by Baillie which employs friction fit end pieces such as taught by Vakil, which allow the connection pins of the light tube of Baillie to penetrate to allow connection to a socket as taught by Baillie so as to enable the application of the sleeve, which can encompass up to the entire tube, to a light tube by providing an opening in the sleeve and end pieces for completely encompassing the tube once the tube has been inserted into the sleeve thus providing a means to use the frictional attachment of the end cap to secure the sleeve upon the light fixture.

As to claims 23-25:

Page 5, line 14 through page 6, line 2, teaches the fitting can be formed from various base materials including glass and plastics. Examples of suitable plastics include acrylics, polyolefins such as polypropylene, polystyrene and polycarbonate.

As to claims 26 and 27:

Page 3, lines 4-9, teach that the luminescent material is preferably a rare earth metal such as europium. Additionally, the luminescent material preferably also comprises an alkaline earth metal, which is preferably strontium.

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Page 6, lines 5-11, teach that the preferred embodiment of the luminescent material comprises europium or dysprosium preferably in combination with strontium oxides or aluminates. It is held that one of ordinary skill in the art would at once envisage the luminescent material comprising strontium aluminate(s) and europium.

Stob is added to the rejection to provide “equidistant spacing.”

Stob teaches:

Column 2, lines 12-46, figures 4, 5, 6, teach a sleeve for receiving a conventional fluorescent element which is closed off at opposite ends by end caps. The sleeve provides protection for the tube and assists in controlling the direction of the observed light output. The passage additionally teaches that the tube can be rotated relative to the element. The figures indicate a uniform spacing between the fluorescent tube and longitudinal sleeve wall.

It would have been obvious to one of ordinary skill in the art to provide a protective sleeve as taught by Stob as the base material to the sleeve of Baillie to provide protection to the fluorescent tube and to allow for control of the direction of emission of light from the fixture of Baillie as suggested by Stob.

### ***Response to Arguments***

6. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

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***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brett A. Crouse whose telephone number is (571)-272-6494. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald L. Tarazano can be reached on 571-272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. A. C./  
Examiner, Art Unit 1794

/D. Lawrence Tarazano/  
Supervisory Patent Examiner, Art Unit  
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